



## INTERIOR BOARD OF INDIAN APPEALS

Walter Twinn v. Aberdeen Area Director, Bureau of Indian Affairs

23 IBIA 196 (02/12/1993)

Related Board case:  
26 IBIA 177



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

WALTER TWINN,  
Appellant

v.

ABERDEEN AREA DIRECTOR,  
BUREAU OF INDIAN AFFAIRS,  
Appellee

: Order Vacating Decision  
: and Remanding Case  
:  
:  
: Docket No. IBIA 92-212-A  
:  
:  
: February 12, 1993

Appellant Walter Twinn seeks review of a July 6, 1992, decision of the Aberdeen Area Director, Bureau of Indian Affairs (Area Director; BIA), declining to rescind negotiated lease no. 1-2113.0-90-95 on the Standing Rock Sioux Indian Reservation. Appellant alleged forgery in the signatures of two of the landowners.

The Area Director's decision letter states:

The question at hand, was the Superintendent justified in relying on the representations of the executed lease presented for approval? We believe the Superintendent acted appropriately. It is not up to the Superintendent to look behind each of the landowners' signatures to effect the lease. The Superintendent must be able to rely on the representations made. Otherwise, if the Superintendent had to investigate each and every representation made, very little business would be transacted. However, this is not to suggest that [BIA] would condone an infraction unless there is clear evidence to support the allegations. Based on the record and documentation at hand, this Agency does not have clear evidence on which to justify a decision to rescind the lease.

In view of the above, we fail to find conclusive evidence that forgery had been committed and the lease fraudulently obtained.

The Board agrees, in general, with the Area Director that BIA officials should be able to rely upon signatures without having to verify each one. However, when a specific allegation of forgery is made, BIA has a responsibility to investigate the allegation, rather than merely to state that the allegation has not been proven. In Rathkamp v. Billings Area Director, 21 IBIA 144, 149 (1992), the Board held: "When BIA obtains knowledge that there are improprieties in the execution of a negotiated lease of trust or restricted land, it has a duty to investigate the matter. This duty is inherent in and the essence of the Secretary's trust responsibility to approve such leases."

In this case, two individuals whose names appeared on the negotiated lease form later denied having signed the form. BIA had a duty to investigate the alleged forgery. That investigation should have started with a comparison of the signatures on the lease form with other examples of the signatures of the two individuals whose signatures were questioned. If this examination indicated a possibility of forgery, the investigation should have been carried further. In Rathkamp the Board suggested that an informal hearing at the agency with all affected persons present was one possible way in which to investigate the matter.

The Board has examined the signatures on the lease form against other examples of the signatures of the two individuals that appear in the administrative record. It notes that one individual appears to have several different signature styles, one of which is not totally dissimilar to the signature on the lease form. The signature of the second individual appears to be more consistent, with more obvious differences from the signature on the lease form. The Board reaches no conclusion as to whether either or both of the signatures were or were not forged. It does conclude, however, that the apparent differences in the signatures were significant enough that BIA should have investigated the matter further.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the Area Director's July 6, 1992, decision is vacated, and this matter is remanded to him for further investigation and the issuance of a new decision.

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge

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//original signed  
Anita Vogt  
Administrative Judge